

IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF TEXAS
SHERMAN DIVISION

UNITED STATES OF AMERICA	§	
	§	
VS.	§	CRIMINAL NO. 4:16CR173
	§	
WILLIAM CRAIG WHISMAN	§	

**REPORT AND RECOMMENDATION ON
DEFENDANT’S COMPETENCY TO STAND TRIAL**

Pursuant to 28 U.S.C. § 636(b) and the Local Rules for the United States District Court for the Eastern District of Texas, this criminal proceeding is before the undersigned United States Magistrate Judge.

On August 18, 2017, the United States of America filed a Motion for Psychiatric Examination [Dkt. 38] seeking a pre-trial psychiatric examination, pursuant to 18 U.S.C. §§ 4241(a) and 4242(a), and Federal Rules of Criminal Procedure 12.2(c), at an appropriate Bureau of Prisons facility, and that a psychiatric report of findings be filed with the Court consistent with 18 U.S.C. §§ 4247(b) and (c). The Court granted that motion on September 11, 2017 [Dkt. 39]. Defendant was subsequently evaluated by Drs. Lisa Bellah and Samuel Browning and was found competent to stand trial.¹

Drs. Bellah and Browning’s report related to Defendant’s competency to stand trial concludes, “Defendant does not currently suffer from a mental disease or defect rendering him unable to understand the nature and consequences of the proceedings against him or to properly assist in his defense.”

¹ A separate report was submitted related to the Rule 12 Notice.

A competency hearing was conducted on December 5, 2017, before U.S. Magistrate Judge Christine A. Nowak. At the hearing, Defendant appeared in court with his counsel, Patrick McLain. Patrick McLain did not present any objections to Drs. Bellah and Browning's opinion on competency. Neither party objected to the admissibility of the report detailing the results and findings; therefore, the Court admitted it into evidence under seal.

The undersigned concludes that Defendant is able to understand the nature and consequences of the proceedings against him and to assist properly in his defense. Defendant has a rational and factual understanding of the proceedings against him, and has sufficient present ability to consult with his attorney with a reasonable degree of rational understanding. 18 U.S.C. §4241(d); see also Dusky v. United States, 362 U.S. 402 (1960).

RECOMMENDATION

The court should find Defendant competent to stand trial because he understands the nature and consequences of the proceedings against him and is able to assist in his defense. See 18 U.S.C. § 4241. It is further recommended that the speedy trial time be excluded from August 18, 2017 (the date the Government filed the Motion for Psychiatric Examination), until the date on which the District Judge signs the order adopting this report and recommendation.

Both Parties waived the fourteen (14) day objection period.

SIGNED this 6th day of December, 2017.



Christine A. Nowak
UNITED STATES MAGISTRATE JUDGE